

**Summary of Changes Included in the Manager's Amendment to H.R. 1328,
The Indian Health Care Improvement Act Amendments of 2007**

Title I-Indian Health, Human Resources, and Development

Section 104. Indian health professions scholarships. Clarifies the requirement of the Secretary to consult with Area Offices, Indian Tribes, Tribal Organizations, or Urban Indian Organizations affected by a waiver or suspension of an active duty service obligation of a scholarship recipient.

Section 106. Scholarship programs for Indian Tribes. Restores the non-Federal match requirement under current law and adds new authority to allow the Secretary to waive the match requirement in any case of extreme hardship or for other good cause shown.

Section 110. Indian Health Service Loan Repayment Program. Reinstates current law to ensure that the Secretary makes application approval decisions consistent with the priorities established. Removes a new deadline requirement for approval or disapproval of applications under this section.

Section 113. Indian recruitment and retention program. Clarifies that Tribes receiving direct care from the Indian Health Service are still eligible for funds to recruit, place, and retain health professionals to meet the staffing needs of Indian Health Programs.

Section 122. Tribal Health Program administration. Clarifies that Indians should be given priority in the provision of program administration training.

Title II-Health Services

Section 204. Diabetes prevention, treatment, and control. Directs the Secretary to maintain model diabetes projects in existence on the date of enactment.

Section 210. Comprehensive school health education programs. Clarifies that Urban Indian Organizations are not eligible to receive funds under this section to develop a comprehensive school health education program for school-aged children.

Section 208. Patient travel costs. Clarifies that travel costs for parents and guardians who serve as qualified escorts for a patient are allowable only when the parent or guardian of the patient is otherwise unable to afford such costs.

Section 221. Licensing. Clarifies that the waiver of licensure requirements for licensed health care professional is only for services provided in direct connection to work as a Tribal Health Program employee in a Tribal Health Program facility.

Title III-Facilities

Section 302. Sanitation Facilities. Strikes a provision that would have authorized the Secretary to use Indian Sanitation Facilities Act funding to fund tribal loans or to meet matching and cost participation requirements of other Federal and non-Federal programs to construct sanitation facilities. Clarifies that the financial assistance provided under this is limited to the Federal share (currently 80 percent) of the costs of operating, managing, and maintaining the sanitation facilities.

Section 305. Funding for the construction, expansion, and modernization of small ambulatory care facilities. Strikes a provision that would have allowed the Secretary to use a portion of funds for debt reduction. Reinstates current law regarding the service-size of an eligible ambulatory care facility and directs the Secretary to set-aside a portion of funds for small ambulatory care facilities who serve less than 500 eligible Indians with a population of less than 2,000 eligible Indians.

Section 306. Indian health care delivery demonstration project. Clarifies that the Secretary may make grants to, and enter into construction contracts or construction project agreements with, Indian Tribes or Tribal Organizations

Section 308. Leases, contracts, and other agreements. Clarifies the scope of construction and renovation under this authority.

Section 311. Indian Health Service/tribal facilities joint venture program. Clarifies that only projects that have not begun the facilities acquisition and construction process are eligible to apply for the Joint Venture Facilities Program.

Section 313. Maintenance and improvement of health care facilities. Allows the maximum renovation cost threshold to be determined by the Secretary in consultation with Indian Tribes and Tribal Organizations.

Title IV – Access to Health Services

Sec. 401. Treatment of payments under Social Security Act health benefits programs. Clarify that special fund is only for payments from Medicare (title XVIII), Medicaid (title XIX), and the Children's Health Insurance Program (title XXI) to Indian health care facilities, and does not apply to payments from other titles of the Social Security Act. Ensures payments from the fund are first used to address compliance with conditions of participation before being used for other health care purposes.

Sec. 402. Grants to and contracts with the Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations to facilitate outreach, enrollment, and coverage of Indians under Social Security Act health benefit programs and other health benefits programs. Clarifies that the Secretary shall facilitate cooperation between States and Tribes by developing “best practices” for enrollment and retention of eligible Indians in programs under titles XIX, XVIII and XXI of the Social Security Act. Fixes technical error relating to the Secretary’s interaction with Tribes. Adds a definition of “benefits” consistent with those definitions used under titles XIX, XXI, and XVIII of the Social Security Act to definitions section.

Sec. 403. Reimbursement from certain third parties of costs of health services. Clarifies that Tribes and Tribal organizations can recover the higher of reasonable charges billed or the highest amount the third party demonstrates it would pay for care and services furnished by a non-governmental provider.

Sec. 404. Crediting of Reimbursements. Eliminates references to covered programs.

Sec. 405. Purchasing health care coverage. Clarifies that if Tribes, Tribal Organizations, or Urban Indian Organizations use federal funding to purchase health insurance coverage for eligible Indians, that coverage must qualify as “creditable coverage” under section 2701(c)(1) of the Public Health Service Act and may not include high deductible health plans or health flexible spending arrangements.

Sec. 406. Sharing arrangements with federal agencies. Maintains current law with respect to reimbursements from the Department of Veterans Affairs or the Department of Defense for health care services provided through the Service, an Indian Tribe, or a Tribal Organization.

Section 407. Payor of last resort. Clarifies that Indian Health Programs and Urban Indian health programs are not payor of last resort with respect to services provided to individuals eligible for services from the Department of Veterans Affairs or the Department of Defense.

Sec. 408. Nondiscrimination under federal health care programs in qualifications for reimbursement for services. Strikes section to ensure current law protections with respect to requirements for licensing and certification of medical providers practicing in Indian health care programs are maintained.

Sec. 415. General exceptions. Relocates section to Section 403 which deals with recovery.

Title V-Health Services for Urban Indians

Section 505. Evaluations; renewals. Clarifies that the Secretary will develop procedures to evaluate compliance with and performance of contracts and grants, which must include an annual onsite evaluation.

Title VI-Organizational Improvements

Section 602. Automated management information system. Clarifies that the automated management information system established by the IHS and patient access to medical and health records must comply with HIPAA or other Federal privacy rules applicable to Federal agencies.

Title VII-Behavioral Health Programs

Section 715. Definitions. Amends the definition of the term “rehabilitation.”

Title VIII-Miscellaneous

Section 801. Reports. Clarifies a reporting requirement regarding reimbursement funds made available to the Secretary under Medicaid, Medicare, and SCHIP. Adds a new report on compliance with credentialing requirements of the Service and licensure requirements of States.

Section 802. Regulations. Strikes a provision that directs the provisions of this Act to supersede any conflicting provision of law.

Section 803. Plan of implementation. Clarifies that the Secretary has one year to submit to Congress a plan of implementation of this Act in consultation with Indian Tribes, Tribal Organizations, and Urban Indian Organization. Further clarifies that the absence of an implementation plan is not to be construed as an excuse for not implementing the Act. The new language in section 803 should mirror the language in subsection 802(d), to the extent feasible.

Section 804. Availability of funds. Eliminates section 804 and incorporates it within section 816 regarding authorization of appropriations.

Section 807. Health services for ineligible persons. Clarifies the geographic location for the provision of services for certain ineligible persons under limited circumstances.

Section 813. Establishment of National Bipartisan Commission on Indian Health Care. Directs the Commission to terminate 90 days after the date of submitting its report to Congress on the delivery of Federal health care services to Indians. Strikes a provision that would waive the applicability of the Federal Advisory Committee Act to the Commission.

Section 814. Confidentiality of medical quality assurance records; qualified immunity for participants. Redesignates this section as “**SECTION 814. USE OF PATIENT SAFETY ORGANIZATIONS.**” Allows Indian Tribes, Tribal Organizations, and Urban Indian Organizations to provide quality activities in accordance with provisions of the Patient Safety and Quality Improvement Act of 2005.

Section 815. Appropriations; availability. Incorporates section 815 within section 816 regarding authorization of appropriations. Redesignates this section as “**SEC. 815. PERMITTING IMPLEMENTATION THROUGH CONTRACTS WITH TRIBAL HEALTH PROGRAMS.**” Clarifies that the Secretary may carry out health services and behavioral health programs, or any other provision of this act, through contracts with Tribal Health Programs and Urban Indian Organizations.

Section 816. Authorization of appropriations. Incorporates section 804 regarding the availability of funds and section 815 regarding the availability of appropriations.

Title II – Improvement of Indian Health Care Provided Under the Social Security Act

Sec. 201. Expansion of payments under Medicare, Medicaid, and SCHIP for all covered services furnished by Indian Health Programs. Ensures current law protections with regard to provider licensure and certification, and conditions of participation in Medicare and Medicaid continue to apply to Indian health care providers. Places definition of Indian Health Program, and related terms in one spot in the Social Security Act, in lieu of repeating definitions throughout various titles.

Sec. 202. Increased outreach to Indians under Medicaid and SCHIP and improved cooperation in the provision of items and services to Indians under Social Security Act benefit programs. Clarifies that the Secretary acts through the Centers for Medicare and Medicaid Services to work with States to improve enrollment. Replaces vague requirement for facilitating cooperation between States and Tribes with directive for Secretary to develop best practices for enrollment and retention of Indians in programs under titles XVIII, XIX, and XXI. Eliminates definition section (see Sec. 201).

Sec. 203. Additional provisions to increase outreach to, and enrollment of, Indians in SCHIP and Medicaid. Adds a clarifying reference to tribal documents. Adds a clarification that the amendments made by this section shall not be executed if they are passed in a different bill prior to the enactment of this act.

Sec. 204. Premiums and cost sharing protections under Medicaid, eligibility determinations under Medicaid and SCHIP, and protection of certain Indian property from Medicaid estate recovery. Strikes definition section (see Sec. 201). Makes technical change in conforming amendment. Fixes a technical error in the statutory placement of provisions relating to Indian property in title XIX.

Sec. 205. Nondiscrimination in qualifications for payment for services under federal health care programs. Strikes section to ensure that current law protections regarding licensure and certification of providers participating in Medicaid and Medicare remain in place.

Sec. 206. Consultation on Medicaid, SCHIP, and other health care programs funded under the Social Security Act involving Indian health programs and urban Indian organizations. Clarifies that the charter for the Tribal Technical Advisory Group may be modified in the future. Fixes technical error in the requirement for States to consult with Tribes regarding the State's Medicaid program.

Sec. 207. Exclusion of waiver authority for affected Indian health programs and safe harbor transactions under the Social Security Act. Replaces blanket exemption from anti-fraud protections with a requirement that the Department of Health and Human Services Office of the Inspector General issue a solicitation through public notice and comment for the development of safe harbors relating to health care items and services provided by Indian Health Programs and Urban Indian organizations. This authority is parallel to the authority the OIG has previously used under 1128D of the Social Security Act.

Sec. 208. Rules applicable under Medicaid and SCHIP to managed care entities with respect to Indian enrollees and Indian health care providers and Indian managed care entities. Clarifies that managed care entities must contract with a sufficient Indian health care providers to serve enrolled Indians and must pay such providers either a negotiated rate or a rate that is not less than the amount it would pay to a non-Indian provider.

Strikes paragraph exempting Indian providers from claims submission requirements and ensures Indian providers meet quality and licensing standards in the same was as other participating providers.

Makes technical changes in paragraphs regarding payment of encounter rate for non-FQHC Indian health care providers. Preserves State flexibility in determining which managed care entities serve Medicaid enrollees. Maintains current law with respect to enrollment and default enrollment of Indians in managed care plans. Ensures Medicaid's current law solvency and medical malpractice protections apply to Indian-run managed care entities and that such managed care entities comply with current law protections relating to advanced directives and distribution of marketing and informational materials.

Sec. 208. Collection of Information on Indians served under Medicare, Medicaid, and CHIP. Adds a new section to ensure that CMS collects information necessary for the Secretary to report on enrollment of Indians in programs under titles XIX, XVIII, and XXI.